Associated Builders and Contractors of Michigan

House Commerce Committee
Testimony on Senate Bill 1085
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Good morning Chairman Schmidt and members of the Committee. Thank you for the opportunity to be here today. My name is Chris Fisher and I am with Associated Builders and Contractors of Michigan. I am here to urge you to support Senate Bill 1085.

Last year, just as more than a dozen other states have done, Michigan did the right thing to protect taxpayers and defend equal opportunity for all workers and businesses by passing the Fair and Open Competition in Governmental Construction Act. Indeed, much discussion was given to the topic of government mandated project labor agreements, or PLAs, so I will therefore be brief since this issue has already been before this committee.

To be clear, a PLA is a collective bargaining agreement. And while there is certainly nothing wrong with a company or workers freely choosing to enter into a PLA, just as with any collective bargaining agreement, only awarding contracts to companies subjected to such agreements is something altogether different and it is highly problematic.

The result is projects being awarded to solely to union firms, denying non-union firms and employees the ability to work on projects funded by their own tax dollars. This is wrong. Instead, all companies and workers, ***union and non-union alike,*** deserve to be treated equally, with dignity and respect.

As such, this committee, as well as the full legislature and Governor sought to protect the proprietary interests of the state as a market participant to encourage competition in the award of public contracts.

In doing so, two important principles were promoted: Equal opportunity and fiscal accountability.

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Since becoming law, Michigan has been able to protect taxpayers by guaranteeing fiscal accountability on governmental contracts, as well as protecting equal opportunity for workers and businesses. Union and non-union have worked alongside each other without incident, just as with any other industry.

Unfortunately, however, a Federal judge recently overturned Michigan's law. Not surprisingly, most agree the recent ruling was wrongly decided, in no small part because it is in direct conflict with the Washington DC Federal Circuit's favorable decision in the *Allbaugh* case, which is a case upholding a federal prohibition against government-mandated PLAs and discrimination on the basis of union affiliation. It is therefore prudent to restore the intent of this Legislature and the Governor to make technical corrections to Public Act 98 of 2011.

As such, considerable work has been accomplished. The changes to this act achieve the following:

- Clarifies that PLAs shall be permissible. However, they must be voluntary and not mandated by a governmental entity, just as all other scenarios involving collective bargaining agreements in all other sectors play out. This clarification results in governmental neutrality and ensures that all qualified union and non-union companies, may perform construction work.
- Clarifies that the legislature is seeking economic efficiency on behalf of taxpayers. Indeed, this is very much consistent with what genuinely fair and open competition seeks to promote.
- Clarifies language so it better mirrors past federal neutrality in contracting rules that were upheld by the federal courts in the Washington, DC Federal Circuit. Again, this will help ensure that the intent of the Legislature and Governor are restored.

Together these changes help guarantee taxpayers the best construction at the best price, while still allowing governmental entities to award contracts equally to all qualified firms, regardless union affiliation.

On behalf of our statewide industry we would like to thank this committee for taking up this important bill to re-affirm Michigan's commitment to equality and fiscal accountability on public construction projects. We urge passage of Senate Bill 1085 to bring about this solution for hardworking taxpayers and construction workers in our state.